

DANGEROUS WEAPON CUSTODIAN LIABILITY

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides a cause of action for negligent entrustment of a firearm.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for circumstances under which a firearm custodian can be liable for damage caused by another individual's use of the firearm custodian's firearm; and
- ▶ provides for a defense to an action brought under the statute.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-5a-103.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-5a-103.5** is enacted to read:

53-5a-103.5. Liability of firearm owners.

(1) As used in this section:



28 (a) "Firearm" means the same as that term is defined in Section 76-10-501.

29 (b) "Firearm custodian" means a person who owns or knowingly possesses a firearm.

30 (c) "Unfit individual" means an individual unfit to possess a dangerous weapon due to
31 the individual's:

32 (i) mental or physical illness or incapacitation;

33 (ii) status as a minor;

34 (iii) history of committing dangerous acts, either negligently or purposefully; or

35 (iv) actions, behaviors, or statements supporting a reasonable suspicion that the
36 individual is likely to use the firearm to cause injury or harm to the individual or to unlawfully
37 cause injury or harm to another individual.

38 (2) A firearm custodian is liable for personal injury or property damage caused by the
39 discharge of the firearm custodian's firearm if:

40 (a) the firearm custodian entrusts the firearm custodian's firearm to an unfit individual;

41 (b) at the time of the entrustment, the firearm custodian knew or should have known
42 the individual entrusted with the firearm was an unfit individual; and

43 (c) the unfit individual's discharge of the firearm custodian's firearm proximately
44 caused the personal injury or property damage.

45 (3) Entrusting a firearm to another individual includes:

46 (a) offering physical custody of a firearm to an individual by either verbal permission
47 or physical transfer; or

48 (b) storing or placing a firearm in an open and unsecured manner that allows the
49 firearm to be plainly visible and accessible to another individual.

50 (4) It is a defense to liability under this section if the firearm custodian demonstrates,
51 by clear and convincing evidence, that the firearm custodian:

52 (a) entrusted the firearm custodian's firearm to an individual with whom the firearm
53 custodian had a personal relationship; and

54 (b) had no reason to suspect that the individual to whom the firearm custodian
55 entrusted the firearm would use the firearm to cause injury or harm to the individual or to
56 unlawfully cause injury or harm to another individual.